

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MYUNG THOMAS,
Plaintiff,

v.

JIN & SANG CORPORATION, et al.,
Defendants.

CASE NO. C13-1032 RAJ

ORDER DENYING DEFAULT
JUDGMENT

This matter comes before the court on Plaintiff's motions for default judgment against defendants Oston Tsevegmid, San Yun, and Jin & Sang Corporation. Dkt. # 14-16. Plaintiff filed suit against defendants for sexual harassment and hostile work environment under Title VII and the RCW 49.60 *et al.* (against defendants Jin & Sang Corporation and Yun),¹ retaliation and constructive discharge (against defendants Jin & Sang Corporation and Yun) assault and battery (against defendant Tsevegmid), negligent and intentional infliction of emotional distress (against all defendants), and negligent retention and supervision (against defendants Jin & Sang Corporation and Yun). Dkt. # 1. In her complaint, plaintiff sought an award of damages against all defendants jointly and severally "in an amount proven at the time of trial[.]" an award of prejudgment interests and costs incurred, an award of reasonable attorney fees and litigation expenses

¹ Defendant Jin Rang Chung has been voluntarily dismissed from this action.

1 under RCW 49.60.030(2), and for such other and further relief as the court deems
2 equitable and proper. *Id.* at 11.

3 The court's role in considering a motion for default judgment is not ministerial.
4 The court must accept all well-pleaded allegations of the complaint as established fact,
5 except facts related to the amount of damages. *TeleVideo Sys., Inc. v. Heidenthal*, 826
6 F.2d 915, 917-18 (9th Cir. 1987). Where those facts establish a defendant's liability, the
7 court has discretion, not an obligation, to enter a default judgment. *Aldabe v. Aldabe*, 616
8 F.2d 1089, 1092 (9th Cir. 1980); *Alan Neuman Productions, Inc. v. Albright*, 862 F.2d
9 1388, 1392 (9th Cir. 1988). The plaintiff must provide evidence to support a claim for a
10 particular sum of damages. *TeleVideo Sys.*, 826 F.2d at 917-18; *see also* Fed. R. Civ. P.
11 55(b)(2)(B). Where the plaintiff cannot prove that the sum he seeks is "a liquidated sum
12 or capable of mathematical calculation," the court must conduct a hearing or otherwise
13 ensure that the damage award is appropriate. *Davis v. Fendler*, 650 F.2d 1154, 1161 (9th
14 Cir. 1981).

15 For several reasons, the court cannot award this judgment.

16 First, none of the declarations filed in support of any of the motions comply with
17 28 U.S.C. § 1746. Second, plaintiff has not provided adequate legal and/or factual
18 authority to support an award for the \$3,000.00 requested for emotional distress,² for the
19 \$45,000 request for punitive damages,³ or for interest on front and back pay. Third, the
20 court questions whether the attorney's fees request is reasonable where time was spent on
21 drafting discovery prior to any defendant making an appearance and where counsel
22 charged time to correct mistakes.

23 The court DENIES Plaintiff's motions for default judgment for the reasons stated
24 above. Dkt. ## 14-16. This ruling is without prejudice to a renewed motion for default

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26 ² The court's concern here is causation.

27 ³ The court notes that plaintiff's complaint did not request punitive damages. Dkt. # 1 at 11
(Relief Sought).

1 judgment that addresses the concerns the court raised in this order. If plaintiff files a
2 renewed motion for default judgment, she shall file one motion with supporting
3 documentation addressing all three defendants. To the extent the combined filing
4 exceeds 50 pages in length, plaintiff must deliver a courtesy copy to this court that abides
5 by the Local Rules, including, Local Rules W.D. Wash. CR 10(e)(6), (9), and (10).

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7 DATED this 19th day of December, 2013.

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11 The Honorable Richard A. Jones
12 United States District Judge
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